

## Commodity Credit Corporation, USDA

## § 1491.30

terminate the conservation easement. In addition, the contingent right also provides, in part, that the Secretary takes title to the easement, if the eligible entity fails to uphold the easement or attempts to transfer the easement without first securing the consent of the Secretary.

(e) As a condition for participation, a conservation plan will be developed by NRCS in consultation with the landowner and implemented according to the NRCS Field Office Technical Guide and approved by the local conservation district. The conservation plan will be developed and managed in accordance with the Food Security Act of 1985, as amended, 7 CFR part 12 or subsequent regulations, and other requirements as determined by the State Conservationist. To ensure compliance with this conservation plan, the easement will grant to the United States, through NRCS, its successors or assigns, a right of access to the easement area.

(f) The cooperating entity shall acquire, hold, manage and enforce the easement. The cooperating entity may have the option to enter into an agreement with governmental or private organizations to carry out easement stewardship responsibilities if approved by NRCS.

(g) Prior to fund disbursement, NRCS must sign the conservation easement, concurring with the terms of the conservation easement and accepting its interest in the conservation easement deed.

(h) All conservation easement deeds acquired with FRPP funds must be recorded. Proof of recordation shall be provided to NRCS by the cooperating entity.

### § 1491.23 Easement modifications.

(a) After an easement has been recorded, no amendments to the easement will be made without prior approval by NRCS State Conservationist and the USDA Office of General Counsel.

(b) Easement modifications will be approved only when easement is duly prepared and recorded in conformity with standard real estate practices, including requirements for title approval, subordination of liens, and recordation, and when the amendment is

consistent with the purposes of the conservation easement.

## Subpart C—General Administration

### § 1491.30 Violations and remedies.

(a) In the event of a violation of the terms of the easement, the cooperating entity shall notify the landowner. The landowner may be given reasonable notice and, where appropriate, an opportunity to voluntarily correct the violation in accordance with the terms of the conservation easement.

(b) In the event that the cooperating entity fails to enforce any of the terms of the easement as determined in the sole discretion of the Secretary, the Secretary and his or her successors and assigns shall have the right to enforce the terms of the easement through any and all authorities available under Federal or State law. In the event that the cooperating entity attempts to terminate, transfer, or otherwise divest itself of any rights, title, or interests of the easement or extinguish the easement or without the prior consent of the Secretary and payment of consideration to the United States, then, at the option of the Secretary, all right, title, and interest in the conservation easement shall become vested in the United States of America.

(c) Notwithstanding paragraph (a) of this section, NRCS, upon notification to the landowner, reserves the right to enter upon the easement area at any time to monitor conservation plan implementation or remedy deficiencies or easement violations, as it relates to the conservation plan. The entry may be made at the discretion of NRCS when the actions are deemed necessary to protect highly erodible soils and wetland resources. The landowner will be liable for any costs incurred by the United States as a result of the landowner's negligence or failure to comply with the easement requirements as it relates to conservation plan violations.

(d) The United States shall be entitled to recover any and all administrative and legal costs, including attorney's fees or expenses, associated with any enforcement or remedial action as it relates to the enforcement of the FRPP easement.